

SENATE BILL 797

D3

2lr2138
CF HB 1042

By: ~~Senators Frosh and Gladden~~, Gladden, Forehand, Ramirez, Raskin, Stone, and Zirkin

Introduced and read first time: February 3, 2012

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 14, 2012

CHAPTER _____

1 AN ACT concerning

2 **Courts and Judicial Proceedings – Witnesses – Privileged Communications**
3 ~~**Between Labor Organization and Member**~~ **Involving Labor Organizations**

4 FOR the purpose of prohibiting a labor organization or an agent of a labor
5 organization from being compelled to disclose in certain proceedings certain
6 communications or information ~~acquired from a member~~ received or acquired
7 while acting in a representative capacity; providing certain exceptions;
8 prohibiting a certain inference from being drawn from a certain refusal;
9 providing that the provisions of federal or State labor law control under certain
10 circumstances; defining certain terms; and generally relating to privileged
11 communications.

12 BY adding to

13 Article – Courts and Judicial Proceedings

14 Section 9–124

15 Annotated Code of Maryland

16 (2006 Replacement Volume and 2011 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article – Courts and Judicial Proceedings**

20 **9–124.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (A) (1) IN THIS SECTION, ~~“LABOR~~ THE FOLLOWING WORDS HAVE THE
2 MEANINGS INDICATED.

3 (2) “EMPLOYEE MEANS AN INDIVIDUAL REPRESENTED BY A
4 LABOR ORGANIZATION REGARDLESS OF WHETHER THE INDIVIDUAL IS A
5 MEMBER OF THE LABOR ORGANIZATION.

6 (3) “LABOR ORGANIZATION” MEANS AN ORGANIZATION
7 THAT REPRESENTS OR SEEKS TO REPRESENT WORKERS FOR THE PURPOSES OF
8 COLLECTIVE BARGAINING.

9 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A
10 LABOR ORGANIZATION OR AN AGENT OF A LABOR ORGANIZATION MAY NOT BE
11 COMPELLED TO DISCLOSE, IN ANY COURT, ADMINISTRATIVE, ARBITRATION, OR
12 OTHER PROCEEDING, ANY COMMUNICATION OR INFORMATION ~~AN AGENT OF~~
13 ~~THE LABOR ORGANIZATION ACQUIRED FROM A MEMBER OF THE LABOR~~
14 ~~ORGANIZATION IN THE COURSE OF THE AGENT’S PROFESSIONAL DUTIES OR~~
15 ~~WHILE ACTING IN THE AGENT’S REPRESENTATIVE CAPACITY~~ THE LABOR
16 ORGANIZATION OR AGENT RECEIVED OR ACQUIRED FROM A MEMBER OF THE
17 LABOR ORGANIZATION AN EMPLOYEE WHILE THE LABOR ORGANIZATION OR
18 AGENT WAS ACTING IN A REPRESENTATIVE CAPACITY.

19 (C) A LABOR ORGANIZATION OR ITS AGENT MAY DISCLOSE A
20 COMMUNICATION OR INFORMATION DESCRIBED IN SUBSECTION (B) OF THIS
21 SECTION:

22 (1) TO THE EXTENT NECESSARY TO PREVENT THE COMMISSION
23 OF A CRIME THAT IS LIKELY TO RESULT IN A CLEAR, IMMINENT RISK OF
24 SERIOUS PHYSICAL INJURY TO OR DEATH OF ANOTHER INDIVIDUAL;

25 (2) TO THE EXTENT THE COMMUNICATION OR INFORMATION
26 CONSTITUTES AN ADMISSION THAT THE ~~LABOR ORGANIZATION MEMBER~~
27 EMPLOYEE HAS COMMITTED A CRIME;

28 ~~(2)~~ (3) IN ANY COURT, ADMINISTRATIVE, ARBITRATION, OR
29 OTHER PROCEEDING AGAINST:

30 (I) THE AGENT OF THE LABOR ORGANIZATION IN THE
31 AGENT’S PERSONAL OR OFFICIAL REPRESENTATIVE CAPACITY; OR

32 (II) THE LABOR ORGANIZATION, ANY AFFILIATED OR
33 SUBORDINATE BODY OF THE LABOR ORGANIZATION, OR ANY AGENT OF THE
34 LABOR ORGANIZATION OR ITS AFFILIATED OR SUBORDINATE BODY;

1 ~~(3)~~ (4) IF THE LABOR ORGANIZATION HAS OBTAINED THE
2 WRITTEN OR ORAL CONSENT OF THE ~~LABOR ORGANIZATION MEMBER~~
3 EMPLOYEE;

4 ~~(4)~~ (5) IF THE ~~LABOR ORGANIZATION MEMBER~~ EMPLOYEE IS
5 DECEASED OR HAS BEEN ADJUDICATED INCOMPETENT BY A COURT OF
6 COMPETENT JURISDICTION AND THE LABOR ORGANIZATION HAS OBTAINED THE
7 WRITTEN OR ORAL CONSENT OF THE PERSONAL REPRESENTATIVE OF THE
8 ~~MEMBER'S~~ EMPLOYEE'S ESTATE OR OF THE ~~MEMBER'S~~ EMPLOYEE'S GUARDIAN;
9 OR

10 ~~(5)~~ (6) WHEN REQUIRED BY COURT ORDER.

11 (D) AN ADVERSE INFERENCE MAY NOT BE DRAWN BASED ON THE
12 REFUSAL OF A LABOR ORGANIZATION OR AN AGENT OF A LABOR ORGANIZATION
13 TO DISCLOSE A COMMUNICATION OR ANY INFORMATION UNDER SUBSECTION
14 ~~(C)(2)~~ (C)(3) OF THIS SECTION.

15 (E) IN THE EVENT OF A CONFLICT BETWEEN THE APPLICATION OF THIS
16 SECTION AND ANY FEDERAL OR STATE LABOR LAW, THE PROVISIONS OF THE
17 FEDERAL OR STATE LAW SHALL CONTROL.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2012.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.